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Before the Board of Appeals

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BOARD OF APPEALS

620-40

JGoldberg Art Unit 125
230,578 02/02/81
Josephus Brugmans, et al

AIDING THE REGRESSION OF
NEOPLASTIC DISEASE WITH
2,3,5,6-TETRAHYDRO-6-

Leonard P. Prusak
For Appellants

Examiner's Answer

This is an appeal from the final rejection of claims 1-19. Claims 3-16, 18 and 19 are herein allowed. Claims 1, 2 and 17 stand rejected.

A correct copy of the claims appears on pages 2-4 of Appellants' Brief.

The rejection under 35 U.S.C. 101 are modified with regard to claim 3-16, 18 and 19 and under 35 U.S.C. 112 are modified with regard to claims 3-19.

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REJECTION UNDER 35 U.S.C. 101

Claims 1, 2 and 17 stand rejected under 35 U.S.C. 101 because there is insufficient evidence of record demonstrating that appellants' compound is effective for treating neoplastic disease including bladder cancer in humans and animals. The Smith et al publication (Cancer Treatment Reports Volume 62, No. 11, November 1978) present by appellants, on page 1711, column 1 states that they are "unable to confirm any beneficial effects of levamisole over the placebo" and "the results are somewhat disappointing because there is not a significant increase in the disease-free interval in the levamisole-treated patients" (page 1714, column 1). This data obviously would not support the treatment of bladder cancer with levamisole.

REJECTION UNDER 35 U.S.C. 112,FIRST PARAGRAPH

Claims 1 and 2 stand rejected as being based on an insufficient disclosure under 35 U.S.C. 112, first paragraph. The term "neoplastic disease" in claims 1 and 2 lack clear exemplary support in the specification as filed. The term is so broad as to read on ineffec-

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tive neoplastic disease such as the treatment of bladder cancer. (Note the Smith et al reference in the above rejection).

For the reasons given above, the final rejection of the appealed claim should be sustained.

Respectfully submitted,

JGoldberg:ebw

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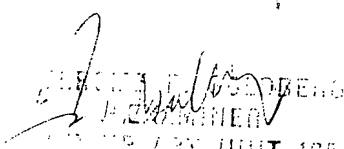
12/15/83

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